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In Reply Refer to:

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Bruce G. Danziger, President
Great Northern Radio, LLC
70 Walnut Street, Suite 411
Wellesley, MA 02481

John C. Donlevie, Executive Vice President
Entercom Springfield License, LLC
401 City Avenue, Suite 809
Bala Cynwyd, PA 19004

Howard J. Braun, Esq.
Katten Muchin Rosenman LLP
1025 Thomas Jefferson Street, N.W., Suite 700
Washington, D.C. 20007-5201

In re: **WVEI-FM, Easthampton, MA**
Facility ID No. 11295
File No. BALH-20060224ABD

**Application for Assignment of License
Informal Objection**

Dear Mr. Danziger, Mr. Donlevie, and Counsel:

We have before us the above-referenced application ("Assignment Application") proposing to assign the license of Station WVEI-FM (formerly WBEC-FM), Easthampton, Massachusetts, from Great Northern Radio, LLC ("Great Northern") to Entercom Springfield License, LLC ("Entercom") and an Objection to Assignment ("Objection") filed by Irene M. Stolz ("Stolz").¹ For the reasons stated below, we deny the Objection and grant the Assignment Application.

Background. The Objection was filed on March 29, 2006. The record before us indicates that Stolz had, in fact, died on March 24, 2006. Notice of Stolz's death was disclosed to the Commission on April 21, 2006, in connection with a Motion for Extension of Time, filed by counsel on behalf of the Estate of Irene M. Stolz ("Estate"). In a subsequent pleading, counsel stated that "the Informal Objection was errantly filed in Objector's name only because counsel for Objector had not been timely informed of

¹ Additional pleadings have been filed. Entercom filed an Opposition to Informal Objection on April 12, 2006. The Estate of Irene M. Stolz, by counsel, filed a Motion for Extension of Time on April 21, 2006. The Estate of Irene M. Stolz, Edward R. Stolz, Executor, filed a Reply to Opposition to Objection to Assignment Application on May 2, 2006. Entercom filed a Motion to Dismiss Informal Objection ("Motion to Dismiss") on June 30, 2006. The Estate of Irene M. Stolz, Edward R. Stolz, II, Executor, filed both an Opposition to Motion to Dismiss Informal Objection, ("Opposition to Dismiss") and an Erratum to Objection to Assignment Application and to Reply to Opposition to Assignment Application ("Erratum to Objection to Assignment Application") on July 20, 2006. Entercom filed a Reply to Opposition to Motion to Dismiss Informal Objection on August 1, 2006.

Objector's passing."² On June 30, 2006, Entercom sought dismissal of the Objection on procedural grounds, arguing that such action was warranted because Stolz, the purported objector, was deceased at the time that the Objection was filed in her name. On July 20, 2006, counsel filed an Erratum to Objection to Assignment Application, seeking to substitute the "Estate of Irene M. Stolz, Edward R. Stolz, II, Executor," for "Irene M. Stolz" as the objecting party. Substantively, the Objection submits that the assignee lacks the necessary character qualifications to hold a Commission license, based on past indecency violations and pending payola allegations. The Objection requests that the Commission forbear from any action on the Assignment Application until such misconduct allegations are resolved.

Discussion. Procedural Issue. Entercom argues that death has terminated Stolz's standing to file the Objection. Parties that lack standing, however, may file informal objections. Section 73.3587 of the Commission's Rules (the "Rules") permits the filing of an informal objection by any person, any time "[B]efore FCC action on any application for an instrument of authorization"³ Given that Stolz died before the Objection was filed, the pleading should have been submitted in the name of the Executor, on behalf of the Estate. Counsel therefore, appropriately filed the July 20, 2006, Erratum to Objection to Assignment Application. We will accept the substitution of the Estate of Irene M. Stolz, Edward R. Stolz, II, Executor, as the objecting party. Accordingly, we will consider the arguments raised in the Objection.

Substantive Issues. Indecency. The Objection raises no issues specific to the Assignment Application. Rather, Objector first states that Entercom, directly and through its subsidiaries, has evidenced its disregard for the Rules, particularly those rules restricting indecent broadcasts. The Commission previously investigated specific indecency allegations and found that they do not put Entercom's qualifications in question.⁴ Accordingly, the Objection's general and unsupported allegations do not provide a basis to initiate a new inquiry into these matters.

Payola. The Objection states that "[O]n March 7, 2006, the New York Attorney General sued [Entercom] alleging that [Entercom] through its New York subsidiaries has traded broadcast airtime for payoffs without disclosing the source or purpose of the consideration received, and as having a corporate plan for the company's participation in 'play-for-pay.'"⁵ Objector asserts that, given the current payola

² Opposition to Dismiss at 7.

³ 47 C.F.R. § 73.3587. *See also Urban Telecommunications Corp.*, Memorandum Opinion and Order, 7 FCC Rcd 3867 (1992) (although agreeing that a dissolved corporation cannot be aggrieved, nonetheless considered the pleading as an informal request for Commission action).

⁴ For example, in a 2004 Notice of Apparent Liability for Forfeiture involving programs broadcast by Entercom stations in the Kansas City and Wichita, Kansas markets, the Commission took into account prior indecency infractions by Entercom stations, and concluded that a monetary forfeiture alone was the appropriate sanction. *See Entercom Kansas City License, LLC*, Notice of Apparent Liability for Forfeiture, 19 FCC Rcd 25011, 25018 (2004) ("Kansas City NALF"). The Commission has since granted the renewals for other stations licensed to Entercom, subsequent to the issuance of the Kansas City NALF. *See, e.g.*, Station KCSP(AM), Kansas City, Missouri (File No. BR-20041001AMS, granted January 21, 2005), Station WDAF-FM, Liberty, Missouri (File No. BRH-20041001AKI, granted March 2, 2005) and Station KKHK(AM), Kansas City, Kansas (File No. BR-20050201BFS, granted February 22, 2006).

⁵ Objection at 5.

litigation involving Entercom, at a minimum, action on the Assignment Application should be deferred until completion of the payola proceedings, which go to the core of Entercom's basic qualifications.

On April 13, 2007, the Commission released an *Order* adopting a Consent Decree between it and Entercom, and terminated its inquiry into payola allegations involving Entercom.⁶ The *Order* determined that the public interest would be served by approving the Consent Decree and terminating all pending proceedings against Entercom relating to the investigation of whether it or any of its respective subsidiaries that hold FCC authorizations violated Sections 317 and 507 of the Act, and/or Section 73.1212 of the Rules.⁷ The Commission concluded that "nothing in the record before us creates a substantial and material question of fact in regard to these matters as to whether Entercom and its direct or indirect subsidiaries that hold FCC authorizations possess the basic qualifications, including character qualifications, to hold or obtain any FCC licenses or authorizations."⁸ We find that the Estate was provided the relief that it seeks, *i.e.*, deferral of the Commission's consideration of the transaction until completion of the payola investigation. Accordingly, this issue is now moot.

Conclusion/Actions. Based on the above, we find that no substantial and material question of fact has been presented. We further find that Entercom is qualified as the assignee and that grant of the Assignment Application is consistent with the public interest, convenience and necessity. Accordingly, IT IS ORDERED, that the Objection IS DENIED, and that the application to assign the license of Station WVEI-FM, Easthampton, Massachusetts (File No. BALH-20060606ABD) from Great Northern Radio, LLC, to Entercom Springfield License, LLC, IS GRANTED.

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: David G. O'Neil, Esq
Brian M. Madden, Esq.

⁶ *Entercom Communications Corp.*, Order, 22 FCC Rcd 7121 (2007) ("*Order*").

⁷ *Id.* at 7121.

⁸ *Id.*